IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 20TH NOVEMBER 2006 / 29TH KARTHIKA 1928

W.P.(C).No.27866 of 2006(P)

PETITIONER:-

KSHETHRACHARA SAMRAKSHANA SAMITHY,
REGD. NO.588/2000/TCR, REP. BY ITS SECRETARY
SRI.V.K.VENKITACHALAM,
35/571, KUNNATH LANE, THRISSUR-680 001.

BY ADV. SRI.P.B.SAHASRANAMAN
SRI.K.JAGADEESH
SRI.T.S.HARIKUMAR

RESPONDENT:-

COCHIN DEVASWOM BOARD,
REPRESENTED BY ITS SECRETARY,
DEVASWOM BUILDINGS, ROUND NORTH,
THRISSUR.

BY STANDING COUNSEL SRI.M.RAMESH CHANDER.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

W.P.(C).NO.27866 OF 2006

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 - PHOTOSTAT COPY OF THE JUDGMENT OF THIS COURT IN W.P.(C). NO.19654 OF 2004, DATED 20TH DECEMBER, 2005.

EXT.P2 - PHOTOGRAPHS OF THE CONSTRUCTIONS OF SADHYALAYAM AT THEKKINKADU MAIDAN.

EXT.P3 - SOME PHOTOGRAPHS OF THE THEKKINKADU MAIDAN WHERE POLITICAL GATHERING IS PROPOSED TO TAKE PLACE.

RESPONDENTS ANNEXURE:-

ANNEXURE A1- PHOTOSTAT COPY OF THE PROCEEDINGS OF THE BOARD DATED 21.8.03 CONTAINING GUIDELINES.

- TRUE COPY -

V.K.Bali,C.J. & S.Siri Jagan,J.

W.P.(C).No.27866 of 2006-P

Dated, this the 20th day of November, 2006

JUDGMENT

V.K.Bali,C.J. (Oral)

Kshethrachara Samrakshna Samithy through its Secretary Sri.V.K.Venkitachalam has filed this petition under Article 226 of the Constitution of India primarily complaining that in the open ground 'Thekkinkadu Maidan', which is a part of Vadakkumnathan Temple owned by Cochin Devaswom Board and is considered to be as the hair of the goddess and sacred, respondent has now commenced construction of buildings and letting out the ground for conducting political meetings. No permanent or semi-permanent construction is allowed in the Thekkinkadu Maidan. The prayer is that the respondent may not be permitted to make any construction in the Maidan nor permit the use of the same by any political parties for their meetings.

2. Pursuant to notice issued by this Court, respondent has entered appearance and filed their statement, the relevant part thereof is reproduced below:

> "Regarding the first allegation, it is respectfully submitted that the construction of 'Sadhyalayam' - actually it is an Annadana Mandapam for feeding the

devotees coming to Sree Vadakkumnathan Temple for worship as insisted by the astrologers in the Prasna Charthu prepared after an Ashtamangalia Prasnam conducted in the temple is done inside Kokkarani Madham Paramba which is considered to be a part of Wadakkunnadhan temple compound. The santhy quarters and Thanthry quarters situate in this paramba which is enclosed by compound walls. It is not a part of Thekkinkad Maidan. Hence any construction done in the Kokkarni Paramba is not in the Thekkinkad Maidan and so not violative of the direction of the Hon'ble Court. The said construction is not near the temple ponds referred to in para 3 of the Writ Petition. The site chosen for the construction of Annadana Mandapam is away from the ponds and will not pollute the tanks in any way or made any hindrance to those who use the tanks. For the above reasons, the first allegation baseless and not at all true to real facts.

Regarding the second allegation, it is submitted that the respondent Board, after giving due consideration of the directions of the Hon'ble Court, has framed guidelines for the allotment of space of Thekkinkad Maidan for vary purpose. A copy of the Board proceedings dated 21.8.03 containing the guidelines is produced herewith and marked as Annexure A1. As per item 12 of the various purposes for which the maidan can be spared, space in the maidan can be allotted conducting public meetings. Hence the allotment of space in the maidan for conducting a public meeting on 28.10.06 is not against any rule, or direction of the Hon'ble Court and is in agreement with the guidelines prepared for the purpose".

Confronted with the position as reflected in the statement filed on behalf of the respondent, counsel for the petitioner states that the position as mentioned therein is not correct. Once it is the specific and positive case of the respondent that no construction is permitted in the Thekkinkadu Maidan and so far as meetings are concerned, they are permitted through a procedure adopted, no occasion at all would arise to interfere with the matter. The mere statement, made on behalf of the petitioner that the facts stated in the statement filed by the respondent may not be correct, cannot be appreciated in writ proceedings under Article 226 of the Constitution of India. No merits. Dismissed.

V.K.Bali
Chief Justice

S.Siri Jagan
Judge

vku/-